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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,259	03/10/2004	Kevin Ptasienki	7377-000009/US	5363
28997	7590	06/23/2005	EXAMINER	
HARNES, DICKEY, & PIERCE, P.L.C			FASTOVSKY, LEONID M	
7700 BONHOMME, STE 400			ART UNIT	
ST. LOUIS, MO 63105			PAPER NUMBER	
			3742	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,259

Applicant(s)

PTASIENSKI ET AL.

Examiner

Leonid M. Fastovsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/14/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19 and 27, drawn to a layered heater, classified in class 219, subclass 543.
 - II. Claims 20-26, drawn to a method of forming a resistive circuit pattern of a layered heater, classified in class 29, subclass 610.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the layered heater can be formed by a different process such as screen printing.
3. During a telephone conversation with Ms. K. Burris on 6/6/05 a provisional election was made without traverse to prosecute the invention of Group I, claims ^{I-}19 and _^27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4-10, 12, 17-18 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakasugi (JP408213202).

Wakasugi teaches a layer heater comprising at least one inherently thick film resistive layer 3 comprising a resistive circuit pattern (Fig. 1-10), the resistive circuit pattern defining a length and a thickness, wherein the thickness varies along the length of the resistive circuit and Wakasugi's resistive circuit inherently produces a variable watt density because of the various resistive thickness.

As for claims 4-5, 10 and 12, see Fig. 2-4 and 6-9 where the pattern 3 has the width that is constant or variable.

As for claim 7, the resistive pattern 3 is a group of series (Fig. 2) or parallel (Fig. 7).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-3 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakasugi in view of Marsten et al (2,629,166).

Wakasugi teaches substantially the claimed invention, but does not teach constant or various spacing. Marsten discloses a resistor assembly with resistive circuit patterns

(Fig. 5-17), having strips 24 and having different width so they have different resistant values and also having constant and various spacing (Col. 4, lines 65-70 and Fig. 6)

It would have been obvious to one having ordinary skill in the art to modify Wakasugi's invention to include resistive circuit patterns and a spacing as taught by Marsten in order to improve heating characteristics of the heater.

9. Claims 15-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakasugi in view of Juliano et al.

Wakasugi teaches substantially the claimed invention, but does not teach dielectric

layer and protective layer. Juliano teaches substantially the claimed invention having a heater system (Fig. 6) comprising a plurality film resistive element 86, a dielectric layer

84 and protective layer 48. It would have been obvious to one having ordinary skill in

the art to modify Wakasugi's invention to include a dielectric layer and a protective layer

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as taught by Juliano in order to protect the heating structure and a plurality of resistive layers to improve heating characteristics of the heater.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wakasugi in view of Colbert et al (3,010,850).

Wakasugi discloses substantially the claimed invention, but does not disclose a resistor comprising a material having a variable composition. Colbert discloses a resistive layer 12 that may be of a variable composition (col. 11, lines 34-45). It would have been obvious to one having ordinary skill in the art to modify Wakasugi's invention to include a resistor comprising a material having a variable composition as taught by Colbert in order to vary an electrical conductivity of the heater.

Response to Arguments


Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

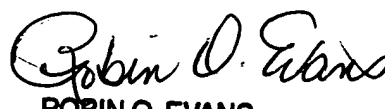
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leonid M Fastovsky
Examiner
Art Unit 3742

lmf

6/6/05


ROBIN O. EVANS
PRIMARY EXAMINER
6/10/05